



Potential Insurance Products for Brownfields Cleanup and Redevelopment

Outreach and Special Projects Staff (5101)

Quick Reference Fact Sheet

EPA's Brownfields Economic Redevelopment Initiative is designed to empower States, communities, and other stakeholders in economic redevelopment to work together in a timely manner to prevent, assess, safely clean up, and sustainably reuse brownfields. A brownfield is a site, or portion thereof, that has actual or perceived contamination and an active potential for redevelopment or reuse. EPA's Brownfields Initiative strategies include funding pilot programs and other research efforts, clarifying liability issues, entering into partnerships, conducting outreach activities, developing job training programs, and addressing environmental justice concerns.

EPA'S ENVIRONMENTAL INSURANCE SURVEY

To better understand potential insurance products and their usefulness in brownfields revitalization, EPA conducted a survey to answer three key questions: 1) do insurance policies exist that could effectively serve as risk transfer mechanisms for potentially contaminated properties; 2) if policies exist or are under development, how many of the risks encountered at potentially contaminated properties are covered; and 3) if no policies exist for specific risks, what factors are inhibiting their development or use?

EPA surveyed eight major insurance companies offering environmental plans. Results of the survey indicate that environmental insurance is available and being purchased.

INSURANCE AVAILABLE

Environmental insurance has developed as a distinct subset of property and casualty insurance. The most common types of environmental insurance available on the market include property transfer insurance, cleanup cost cap/stop loss insurance, and owner controlled insurance:

- *Property Transfer Insurance*—protects an insured against on-site cleanup costs of unknown, pre-existing, or new conditions, and against third-party claims for off-site cleanup costs that result from on-site pollution.

- *Cleanup Cost Cap/Stop Loss Insurance*—protects an insured against a cleanup project that runs substantially over budget.
- *Owner-Controlled Insurance*—allows an owner or prime contractor undertaking cleanup to determine the desired scope of insurance protection against the acts or omissions of other parties involved in the cleanup.

The minimum amount of coverage generally ranges from \$100,000 to \$1 million per policy, and the maximum coverage ranges from \$10 million to \$40 million per policy. To date, coverage has been limited to commercial properties and multi-family residential properties. Premiums range from \$5,000 to \$1 million, and deductibles vary widely.

AVAILABILITY/MARKETABILITY FACTORS

Two groups of factors influence the availability and marketability of useful insurance policies.

Availability of environmental insurance products factors include:

- *Underwriting Factors: Cost of Cleanup.* In order to accurately price the coverage of risks, environmental insurers must create tools or underwriting methodologies. The environmental consulting industry is an effective primary data source for insurance risk underwriting.

- *Underwriting Factors: Property Value Impairment.* Underwriting of property value impairment risks is directly related to appraisal industry practices. The appraisal industry's position is that value impairment attributable to environmental conditions is outside the purview of a routine appraisal, making it more difficult for insurance providers to underwrite property value impairment risks.

- *Market Factors: Product Awareness.* Many survey respondents were concerned that sufficient information is not available to the commercial real estate industry regarding the availability of environmental insurance products. While this information dissemination is clearly the responsibility of the insurance industry, it was frequently suggested that EPA could provide useful support to the insurance industry's efforts to increase product awareness in the marketplace.

- *Legal Factors: Uncertainty.* A factor that impacts the extent of coverage is the uncertainty created by liability. Some survey respondents anticipate that as liability is further clarified, lender confidence will increase and coverage costs will decline.

Insurance products, even at reasonable costs, may not provide adequate incentive in economic redevelopment to purchase, redevelop, and reuse brownfields because the current products lack many factors necessary to make them "marketable." Three key issues, among many, affect insurance marketability.

- *Policies offered focus on the "high" end of the market.* The insurance industry tends to insure larger, well-financed transactions involving financially sound enterprises. Many brownfields' prospective purchasers may not qualify for insurance coverage because they are not as financially sound or well-financed as large corporations.
- *Owners of properties still concerned with CERCLA liability.* Many larger, financially strong companies are not interested in returning their properties to the real estate market until Federal and state hazardous waste laws further limit or clarify their liability following a cleanup and transfer of property.

- *Lenders reluctant to finance properties.* Major sources of credit, like large, financially strong companies, fear being viewed as "deep pockets." They are not interested in financing the return of contaminated properties to the real estate market if contingent liability risks are unacceptable, based on the uncertainties of future liability.

SURVEY INTERVIEWS

The commercial real estate industry is used to managing risks such as changes in interest rates and market conditions. Environmental liability risk, on the other hand, is not viewed by the industry as inherent in doing business, and is often poorly understood and seen as too unpredictable. EPA developed a list of potential risks and questions related to the coverage of those risks in its survey. Using the list, EPA interviewed eight representatives from three segments of the insurance industry: underwriters, insurance providers, and bankers.

Most respondents to EPA's survey identified two relevant issues: lack of knowledge of available risk transfer insurance products, and lack of explanation of clear risks and CERCLA liability encountered at potentially contaminated properties. Therefore, educating stakeholders about the availability and use of insurance risk transfer mechanisms, clarifying the liability encountered at these sites, and encouraging broader and more consistent implementation of financing and underwriting standards will help to encourage redevelopment and reuse of brownfields.

CONTACT

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